

SIXTY-SECOND DAY

TUESDAY, APRIL 29, 1997

PROCEEDINGS

The Senate met at 10:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Luna, Madla, Moncrief, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

The President announced that a quorum of the Senate was present.

Father Joseph O'Brien, Our Lady Star of the Sea Church, Port Isabel, offered the invocation as follows:

Heavenly Father, almighty God, Yahweh, Allah, we know You by many names, but Your nature escapes our finite minds. We stand in awe at the greatness of Your creation. Our little planet is but a speck in Your universe, yet the greatness of the mountains, the vastness of the sea, the fruitfulness of the plains defy our imagination and You filled it all with millions of different forms of life. Then, I think You played a trick on us. You stepped back and told us to run it, to make the laws of a just and orderly society. God help us! Today, as a gathering of the Senate of the State of Texas, we participate in this activity. Guide and enlighten us to be Your voice in the State of Texas. It is not easy because You placed in us as our strongest motivator, self-interest, and You demand as our strongest obligation, love of our fellowman. What a paradox! We pray that we will have the wisdom and the courage to help Texas to be a just and merciful state to all of its citizens. We ask this in Your holy name. Amen.

On motion of Senator Truan and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

CO-AUTHOR OF SENATE BILL 844

On motion of Senator Truan and by unanimous consent, Senator West will be shown as Co-author of **SB 844**.

CO-AUTHOR OF SENATE BILL 1048

On motion of Senator Truan and by unanimous consent, Senator Lucio will be shown as Co-author of **SB 1048**.

CO-AUTHOR OF SENATE BILL 1351

On motion of Senator Shapleigh and by unanimous consent, Senator Madla will be shown as Co-author of **SB 1351**.

CO-AUTHORS OF SENATE BILL 1694

On motion of Senator Shapiro and by unanimous consent, Senators Lucio and Nixon will be shown as Co-authors of **SB 1694**.

CO-AUTHORS OF SENATE BILL 1698

On motion of Senator Shapiro and by unanimous consent, Senators Lucio and Nixon will be shown as Co-authors of **SB 1698**.

CO-AUTHOR OF SENATE BILL 1871

On motion of Senator Duncan and by unanimous consent, Senator West will be shown as Co-author of **SB 1871**.

CO-AUTHORS OF SENATE RESOLUTION 599

On motion of Senator Madla and by unanimous consent, Senators Luna and Wentworth will be shown as Co-authors of **SR 599**.

CO-AUTHORS OF SENATE RESOLUTION 600

On motion of Senator Madla and by unanimous consent, Senators Luna and Wentworth will be shown as Co-authors of **SR 600**.

MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and was referred to the Committee on Nominations:

Austin, Texas
April 28, 1997

**TO THE SENATE OF THE SEVENTY-FIFTH LEGISLATURE,
REGULAR SESSION:**

I ask the advice, consent and confirmation of the Senate with respect to the following appointments:

**TO BE A MEMBER OF THE TEXAS STATE BOARD OF PUBLIC
ACCOUNTANCY for a term to expire January 31, 2003:**

EDWARD LEE SUMMERS
3608 Highland View Drive
Austin, Texas 78731-4033

Mr. Summers will be replacing I. Lee Wilson of Dallas whose term expired.

**TO BE A MEMBER OF THE BOARD FOR LEASE-TEXAS BOARD OF
CRIMINAL JUSTICE for a term to expire September 1, 1997:**

ALFRED M. "MAC" STRINGFELLOW
309 East Hermosa
San Antonio, Texas 78212

Mr. Stringfellow will be replacing Ellen J. Halbert of Austin whose term expired.

Respectfully submitted,
/s/George W. Bush
Governor of Texas

BILLS AND RESOLUTIONS SIGNED

The President announced the signing of the following enrolled bills and resolutions in the presence of the Senate after the captions had been read:

SB 120, SB 161, SB 163, SB 446, SB 460, SB 484, SB 492, SB 538, SB 590, SB 634, SB 730, SB 800, SB 819, SB 1755, SJR 19, SCR 28, SCR 63

**INTRODUCTION OF
BILLS AND RESOLUTIONS POSTPONED**

Senator Truan was recognized and announced that the introduction of bills and resolutions on first reading would be postponed until the end of today's session.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER
Austin, Texas
Tuesday, April 29, 1997

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

HB 43, Relating to certain punishments as a result of driving while a driver's license is suspended or revoked.

HB 237, Relating to the prosecution of failure to return public library property as theft of service.

HB 423, Relating to repair of motor vehicles covered under insurance policies.

HB 546, Relating to the civil liability of charitable organizations providing neighborhood crime prevention or patrol services.

HB 658, Relating to the county of residence of certain persons released on parole or to mandatory supervision after serving sentences for sexual offenses.

HB 909, Relating to amending certain provisions of the Insurance Code, concerning authorized investments of insurers, specifically, Articles 2.10, 3.33, 3.39-1, 3.39-2, 9.18, and 21.39-B.

HB 2914, Relating to the conveyance by the General Land Office of the state's interest in certain real property.

HB 3139, Relating to confidentiality of certain workers' compensation information.

Respectfully,

/s/Sharon Carter, Chief Clerk
House of Representatives

CAPITOL PHYSICIAN

Senator Sibley was recognized and presented Dr. Robert Matthews of Eastland as the "Doctor for the Day."

The Senate welcomed Dr. Matthews and thanked him for his participation in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians.

(Senator Madla in Chair)

SENATE RESOLUTION 601

Senator Lucio offered the following resolution:

WHEREAS, The Senate of Texas takes pleasure in recognizing Father Joseph O'Brien, who is Chaplain of the Day on April 29, 1997; and

WHEREAS, Father O'Brien is the Pastor of the Church of Our Lady Star of the Sea and most of his parishioners are shrimpers and their families; his church is located a block from where many of the boats belonging to members of his congregation are docked; and

WHEREAS, Every year, there is a Shrimpers Mass at the beginning of the shrimping season; holy water is sprinkled on the shrimp boats and the blessings of God are invoked to protect the shrimpers who man the boats and their families at home; and

WHEREAS, Shrimpers comprise 80 percent of Father O'Brien's congregation, and he has become a strong advocate for the fishermen; and

WHEREAS, Inspirational and caring, this pastor has unselfishly dedicated his time and his energy to the members of his church and his community; and

WHEREAS, Father O'Brien retired from the State of Texas, where he served as a chaplain for the Texas Department of Criminal Justice; and

WHEREAS, Father O'Brien's spiritual beliefs have helped him through many difficult moments, among them are when he was an intermediary and hostage during a prison revolt at Huntsville State Penitentiary in July, 1974, when he was shot during the prisoners' escape attempt, and it was his strong faith that helped him survive the ordeal; and

WHEREAS, It is indeed appropriate that the Texas Senate recognize this outstanding pastor when he is Chaplain of the Day; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 75th Legislature, hereby commend Father Joseph O'Brien on this special day; and, be it further

RESOLVED, That a copy of this Resolution be prepared for Father Joseph O'Brien as an expression of the highest esteem of the Texas Senate.

The resolution was read.

On motion of Senator Truan and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Lucio, the resolution was adopted by a viva voce vote.

GUEST PRESENTED

Senator Lucio was recognized and introduced to the Senate Father Joseph O'Brien of Our Lady Star of the Sea Church in Port Isabel. Father O'Brien offered the invocation for the Senate today.

The Senate welcomed Father O'Brien.

SENATE BILL 997 WITH HOUSE AMENDMENT

Senator Harris called **SB 997** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **SB 997** on page 6, line 21, after "property." insert the following "Abandoned real or personal property may be foreclosed on by a secured party, trustee, or mortgage without further order of the court.":

The amendment was read.

On motion of Senator Harris, the Senate concurred in the House amendment to **SB 997** by a viva voce vote.

(President in Chair)

SENATE RESOLUTION 593

Senator Barrientos offered the following resolution:

WHEREAS, The Senate of the State of Texas takes pride in recognizing Austin Smiles for its outstanding work in the field of plastic surgery on behalf of the children of Austin and of Latin America; and

WHEREAS, Austin Smiles is a nonprofit organization that provides reconstructive plastic surgery, primarily cleft lip and palate repairs, to the needy children of Austin and to those children in the 10-county surrounding area; and

WHEREAS, Austin Smiles also travels to Latin America on three medical missions a year to repair the smiles of children; the missions last one week, and approximately 40 volunteers participate, including ear, nose, and throat specialists, anesthesiologists, nurses, speech pathologists, family practice physicians, hand surgeons, and oral surgeons; and

WHEREAS, The corrective surgery allows restoration of close-to-normal speech, hearing, and eating, as well as the enhancement of the breathing ability of a child; the family's inability to pay does not affect the voluntary surgery or patient care; and

WHEREAS, Austin Smiles performs 50 to 75 surgeries annually at Children's Hospital of Austin and to date has completed over 2,500 corrective surgeries for children; no participating personnel are paid for their services; however, each volunteer is required to raise a sponsorship fee to cover a portion of their expenses for missions to Latin America; and

WHEREAS, Austin Smiles was created in 1987 by participating surgeons in the Austin Society of Plastic and Reconstructive Surgeons; these volunteers generously contribute their time, talent, and resources to removing the deformities of children, thereby raising the children's self-esteem and their chances of becoming productive members of society; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 75th Legislature, hereby commend all those who participate in the humanitarian efforts of Austin Smiles and express appreciation to them for their exceptional work and generosity; and, be it further

RESOLVED, That a copy of this Resolution be prepared for Austin Smiles as an expression of esteem from the Texas Senate.

BARRIENTOS
SIBLEY
RATLIFF

The resolution was again read.

The resolution was previously adopted on Monday, April 28, 1997. The names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

GUESTS PRESENTED

Senator Barrientos was recognized and introduced to the Senate the following participants in Austin Smiles: Jay Doyle, Chair; Janice Hughes, Vice-chair and First Executive Director; Jim Cullington, Jim Fox, and Bill Davis, participating surgeons; Carolyn Hardwick, Medical Missions Director and board member; Judge Orlinda Naranjo, board member; Railroad Commissioner Barry Williamson, Executive Committee; and Kendyl Daugherty Richards, Executive Director.

The Senate welcomed its guests.

(Senator Brown in Chair)

SENATE BILL 1639 ON SECOND READING

The Presiding Officer laid before the Senate **SB 1639** on its second reading. The bill was read second time, amended, and further consideration postponed yesterday to a time certain of 10:00 a.m. today.

SB 1639, Relating to a lien for the processing or harvesting of cotton.

Question—Shall **SB 1639** as amended be passed to engrossment?

The bill as amended was passed to engrossment by a viva voce vote.

SENATE BILL 1639 ON THIRD READING

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1639** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SB 1639 was read third time and was passed by a viva voce vote.

(President in Chair)

SENATE BILL 1517 ON SECOND READING

On motion of Senator Truan and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

SB 1517, Relating to the repeal of certain advisory committees of the Texas Department of Health.

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 1517 ON THIRD READING

Senator Truan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1517** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SB 1517 was read third time and was passed by a viva voce vote.

BILLS AND RESOLUTIONS SIGNED

The President announced the signing of the following enrolled bills and resolutions in the presence of the Senate after the captions had been read:

HB 706, HB 1152, HB 1296, HB 1492, HCR 59, HCR 61, HCR 62, HCR 63, HCR 162

**SENATE CONCURRENT RESOLUTION 34
ON SECOND READING**

On motion of Senator Moncrief and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading:

SCR 34, Memorializing Congress to improve patient access to quality health care by facilitating the rapid review and approval of new drugs, biological products, and medical devices.

The resolution was read second time and was adopted by a viva voce vote.

SENATE BILL 1120 ON SECOND READING

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

SB 1120, Relating to the interception of wire, oral, or electronic communications, to the use of pen registers and trap and trace devices, and to the civil and criminal consequences of improperly engaging in those activities.

The bill was read second time.

Senator Armbrister offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **SB 1120** in SECTION 1 of the bill, in amended Section 1(8), Article 18.20, Code of Criminal Procedure (introduced version, page 1, line 24), by striking "a [the]" and substituting "the".

The committee amendment was read and was adopted by a viva voce vote.

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 1

Amend **SB 1120** in SECTION 5 of the bill by striking subsection (2), Section 1, Article 18.21, Code of Criminal Procedure, and substituting a new subsection (2), Section 1, Article 18.21, Code of Criminal Procedure, to read as follows:

(2) "Authorized peace officer" means:

- (A) a sheriff or a sheriff's deputy;
- (B) a constable or deputy constable;
- (C) a marshal or police officer of an incorporated city, town, or village;
- (D) a ranger or officer commissioned by the Public Safety Commission or the director of the Department of Public Safety;
- (E) an investigator of the district attorney's, criminal district attorney's, or county attorney's office;
- (F) a law enforcement agent of the Alcoholic Beverage Commission; ~~or~~
- (G) a law enforcement officer commissioned by the Parks and Wildlife Commission; ~~or~~
- (H) an enforcement officer employed by the Department of Criminal Justice pursuant to Section 493.015, Government Code.

The amendment was read and was adopted by a viva voce vote.

SB 1120 as amended was passed to engrossment by a viva voce vote.

SENATE BILL 1120 ON THIRD READING

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1120** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SB 1120 was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1748 ON SECOND READING**

The President laid before the Senate CSSB 1748 on its second reading. The bill was read second time and further consideration postponed yesterday to a time certain of 10:30 a.m. today.

CSSB 1748, Relating to procedures for accepting certain voters at a polling place.

Question—Shall **CSSB 1748** be passed to engrossment?

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1748**, in SECTION 1, in Subsection (a) of Section 63.008, Election Code, as follows:

(1) On page 1, lines 19 through 22 (Committee printing), strike the added text beginning with "i" through "(2)".

(2) On page 1, line 25 (Committee printing), strike "i", and substitute "and".

(3) On page 1, line 26 (Committee printing), insert the following:

"(1) the voter presents proof of identification in a form described by Subsection (c); or

(2) the affidavit is also signed by a person who is working at the polling place and who attests to the identity of the voter."

The amendment was read and was adopted by a viva voce vote.

(Senator Whitmire in Chair)

CSSB 1748 as amended was passed to engrossment by the following vote: Yeas 22, Nays 9.

Yeas: Armbrister, Bivins, Brown, Carona, Duncan, Fraser, Galloway, Harris, Haywood, Lindsay, Lucio, Madla, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Sibley, Wentworth, West, Zaffirini.

Nays: Barrientos, Cain, Ellis, Gallegos, Luna, Moncrief, Shapleigh, Truan, Whitmire.

SENATE BILL 1696 ON SECOND READING

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

SB 1696, Relating to the enforcement of land use restrictions in certain counties.

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 1696 ON THIRD READING

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1696** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SB 1696 was read third time and was passed by the following vote: Yeas 31, Nays 0.

SENATE BILL 1728 ON SECOND READING

On motion of Senator West and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

SB 1728, Relating to procedures in death penalty cases.

The bill was read second time.

Senator West offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **SB 1728**, SECTION 1, in Subsection (a), Section 4, Article 11.071, Code of Criminal Procedure (introduced version page 1, line 7), between "than the" and "45th day", by inserting "180th day after the date the court of criminal appeals appoints counsel under Section 2 or not later than the".

The committee amendment was read and was adopted by a viva voce vote.

SB 1728 as amended was passed to engrossment by a viva voce vote.

SENATE BILL 1728 ON THIRD READING

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1728** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SB 1728 was read third time and was passed by the following vote: Yeas 31, Nays 0.

SENATE BILL 548 ON SECOND READING

On motion of Senator Shapiro and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

SB 548, Relating to the punishment for the offense of unlawfully transferring a weapon.

The bill was read second time.

Senator Shapiro offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **SB 548** on page 1, lines 8-9, by striking "felony of the third degree" and inserting "state jail felony".

The committee amendment was read and was adopted by a viva voce vote.

SB 548 as amended was passed to engrossment by a viva voce vote.

SENATE BILL 548 ON THIRD READING

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 548** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SB 548 was read third time and was passed by a viva voce vote.

SENATE JOINT RESOLUTION 47 ON SECOND READING

On motion of Senator Sibley and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

SJR 47, Proposing a constitutional amendment to abolish the office of constable in Jack County.

The resolution was read second time and was passed to engrossment by a viva voce vote.

SENATE JOINT RESOLUTION 47 ON THIRD READING

Senator Sibley moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SJR 47** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SJR 47 was read third time and was passed by the following vote: Yeas 30, Nays 1.

Nays: Lucio.

SENATE BILL 1195 ON SECOND READING

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

SB 1195, Relating to form specifications for the recording of certain legal instruments.

The bill was read second time.

(President in Chair)

Senator Lucio offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **SB 1195** as follows:

On page 3, lines 17-19, strike "An additional page fee of \$2, as determined under Section 118.011(2), shall be collected for recording the cover sheet." and replace it with "No additional page fee as determined under Section 118.011(2), shall be collected for recording the cover sheet."

The committee amendment was read and was adopted by a viva voce vote.

SB 1195 as amended was passed to engrossment by a viva voce vote.

SENATE BILL 1195 ON THIRD READING

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1195** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SB 1195 was read third time and was passed by a viva voce vote.

(Senator Truan in Chair)

**MOTION TO PLACE
COMMITTEE SUBSTITUTE**

SENATE BILL 1335 ON SECOND READING

Senator Ellis asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

CSSB 1335, Relating to funding the housing trust fund.

There was objection.

Senator Ellis then moved to suspend the regular order of business and take up **CSSB 1335** for consideration at this time.

The motion was lost by the following vote: Yeas 16, Nays 12. (Not receiving two-thirds vote of Members present)

Yeas: Barrientos, Brown, Cain, Ellis, Gallegos, Lucio, Luna, Madla, Moncrief, Patterson, Ratliff, Shapleigh, Truan, West, Whitmire, Zaffirini.

Nays: Carona, Fraser, Galloway, Harris, Haywood, Lindsay, Nelson, Nixon, Ogden, Shapiro, Sibley, Wentworth.

Absent: Armbrister, Bivins, Duncan.

GUESTS PRESENTED

Senator Madla, joined by Senators Luna and Wentworth, was recognized and introduced to the Senate Avery Johnson and Vinny Del Negro, members of the San Antonio Spurs basketball team and founders of The All-Star Connection 4 San Antonio.

The Senate welcomed its guests.

**COMMITTEE SUBSTITUTE
SENATE BILL 1913 ON SECOND READING**

On motion of Senator Sibley and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 1913, Relating to service contracts sold by a manufacturer or seller of property covered by a service contract.

The bill was read second time.

Senator Ogden offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1913** as follows:

(1) In SECTION 1 of the bill (committee printing page 2, line 2) add a new subsection (b)(10) to read as follows:

(10) Transactions in this state involving asset management contracts with owners of capital equipment. For the purposes of this subdivision, "asset management contract" means a contract or agreement for a separately stated consideration for a specific duration to manage the capital equipment assets of the owner of the equipment including, but not limited to, the maintenance costs associated with service and repair incidents rising from equipment failure, provided the contractor notifies the owner of the capital equipment, that the asset management contract is exempt from the provisions of the Insurance Code.

The amendment was read and was adopted by a viva voce vote.

CSSB 1913 as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1913 ON THIRD READING**

Senator Sibley moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1913** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

CSSB 1913 was read third time and was passed by a viva voce vote.

SENATE BILL 1736 ON SECOND READING

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

SB 1736, Relating to the composition of a board of adjustment in certain municipalities.

The bill was read second time.

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 1

Amend **SB 1736** by adding the following new sections after SECTION 1 and renumbering the subsequent section accordingly:

SECTION 2. Section 211.010, Local Government Code, is amended by amending Subsection (a) and adding Subsection (e) to read as follows:

(a) Except as provided by Subsection (e), any ~~[Any]~~ of the following persons may appeal to the board of adjustment a decision made by an administrative official:

- (1) a person aggrieved by the decision; or
- (2) any officer, department, board, or bureau of the municipality affected by the decision.

(e) A member of the governing body of the municipality who serves on the board of adjustment under Section 211.008(g) may not bring an appeal under this section.

SECTION 3. Section 211.011, Local Government Code, is amended by adding Subsection (g) to read as follows:

(g) The court may not apply a different standard of review to a decision of a board of adjustment that is composed of members of the governing body of the municipality under Section 211.008(g) than is applied to a decision of a board of adjustment that does not contain members of the governing body of a municipality.

The amendment was read and was adopted by a viva voce vote.

SB 1736 as amended was passed to engrossment by a viva voce vote.

SENATE BILL 1736 ON THIRD READING

Senator Barrientos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1736** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SB 1736 was read third time and was passed by the following vote: Yeas 31, Nays 0.

SENATE BILL 1636 ON SECOND READING

On motion of Senator Duncan and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

SB 1636, Relating to the requirements for state agency orders adopting rules and substantial compliance with those requirements.

The bill was read second time.

Senator Moncrief offered the following amendment to the bill:

Floor Amendment No. 1

Amend **SB 1636** as follows:

Strike Subsection (b) of SECTION 2 of the bill (committee printing page 1, lines 32-33).

The amendment was read and was adopted by a viva voce vote.

SB 1636 as amended was passed to engrossment by a viva voce vote.

SENATE BILL 1636 ON THIRD READING

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1636** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SB 1636 was read third time and was passed by a viva voce vote.

GUESTS PRESENTED

Senator Zaffirini was recognized and introduced to the Senate David Willstrop of Universal City, Champion Calf Rider of Bexar County, and his parents Geff and Rose Willstrop.

The Senate welcomed its guests.

(Senator Brown in Chair)

SENATE BILL 1240 ON SECOND READING

On motion of Senator West and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

SB 1240, Relating to the state's purchasing of services for state agency clients.

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 1240 ON THIRD READING

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1240** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SB 1240 was read third time and was passed by the following vote: Yeas 31, Nays 0.

**HOUSE CONCURRENT RESOLUTION 148
ON SECOND READING**

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading:

HCR 148, Designating the Texas Sweet Onion as the official State Vegetable of Texas.

The resolution was read second time and was adopted by a viva voce vote.

HOUSE BILL 1049 ON SECOND READING

On motion of Senator Truan and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 1049, Relating to notification of a judgment against a Mexican resident arising from a vehicle accident.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 1049 ON THIRD READING

Senator Truan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1049** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

HB 1049 was read third time and was passed by a viva voce vote.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Tuesday, April 29, 1997

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

SB 29, Relating to the implementation of the child support enforcement provisions of Title III of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996; providing penalties.
(Amended)

SB 1386, Relating to title to materials and equipment in the state library system.

THE HOUSE HAS REFUSED TO CONCUR IN SENATE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

HB 1300

House Conferees: Corte - Chair/Greenberg/Kubiak/McCall/Oliveira

THE HOUSE HAS GRANTED THE REQUEST OF THE SENATE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

SB 263

House Conferees: Cuellar - Chair/King/Shields/Siebert/Thompson

Respectfully,

/s/Sharon Carter, Chief Clerk
House of Representatives

**COMMITTEE SUBSTITUTE
SENATE BILL 1907 ON SECOND READING**

On motion of Senator Bivins and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 1907, Relating to tuition and fees charged by public institutions of higher education, including the redesignation of certain fees as tuition.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1907 ON THIRD READING**

Senator Bivins moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1907** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

CSSB 1907 was read third time and was passed by the following vote: Yeas 31, Nays 0.

**SENATE RULE 11.19 SUSPENDED
(Posting Rule)**

On motion of Senator Gallegos and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on State Affairs might consider **SB 371** today.

MOTION TO ADJOURN

On motion of Senator Truan and by unanimous consent, the Senate at 11:45 a.m. agreed to adjourn, upon completion of the introduction of bills and resolutions on first reading, until 10:00 a.m. tomorrow.

HOUSE BILLS AND RESOLUTIONS ON FIRST READING

The following bills and resolutions received from the House were read first time and referred to the committees indicated:

- HB 726** to Committee on State Affairs.
- HB 814** to Committee on State Affairs.
- HB 826** to Committee on Intergovernmental Relations.
- HB 907** to Committee on Criminal Justice.
- HB 917** to Committee on Criminal Justice.
- HB 1039** to Committee on Health and Human Services.
- HB 1138** to Committee on Intergovernmental Relations.
- HB 1254** to Committee on Intergovernmental Relations.
- HB 1291** to Committee on Jurisprudence.
- HB 1294** to Committee on Intergovernmental Relations.
- HB 1324** to Committee on Economic Development.
- HB 1345** to Committee on State Affairs.
- HB 1367** to Committee on Natural Resources.

- HB 1407** to Committee on Health and Human Services.
- HB 1487** to Committee on State Affairs.
- HB 1556** to Committee on International Relations, Trade, and Technology.
- HB 1614** to Committee on Finance.
- HB 1632** to Committee on Economic Development.
- HB 1706** to Committee on Jurisprudence.
- HB 1773** to Committee on Finance.
- HB 1805** to Committee on International Relations, Trade, and Technology.
- HB 1823** to Committee on Natural Resources, Subcommittee on Agriculture.
- HB 1891** to Committee on Intergovernmental Relations.
- HB 1933** to Committee on Health and Human Services.
- HB 1960** to Committee on Natural Resources.
- HB 1974** to Committee on Intergovernmental Relations.
- HB 1989** to Committee on Education.
- HB 2003** to Committee on Jurisprudence.
- HB 2005** to Committee on Jurisprudence.
- HB 2007** to Committee on Jurisprudence.
- HB 2080** to Committee on Health and Human Services.
- HB 2179** to Committee on Intergovernmental Relations.
- HB 2215** to Committee on Jurisprudence.
- HB 2261** to Committee on Jurisprudence.
- HB 2411** to Committee on Finance.
- HB 2445** to Committee on Intergovernmental Relations.
- HB 2510** to Committee on Health and Human Services.
- HB 2512** to Committee on State Affairs.
- HB 2519** to Committee on Finance.
- HB 2522** to Committee on State Affairs.
- HB 2526** to Committee on Jurisprudence.
- HB 2528** to Committee on Education.
- HB 2531** to Committee on Jurisprudence.
- HB 2561** to Committee on Criminal Justice.
- HB 2564** to Committee on Finance.
- HB 2573** to Committee on Health and Human Services.
- HB 2584** to Committee on State Affairs.
- HB 2634** to Committee on Criminal Justice.
- HB 2683** to Committee on Jurisprudence.
- HB 2685** to Committee on Health and Human Services.
- HB 2702** to Committee on Jurisprudence.
- HB 2727** to Committee on Jurisprudence.
- HB 2734** to Committee on Jurisprudence.
- HB 2738** to Committee on Criminal Justice.
- HB 2745** to Committee on State Affairs.
- HB 2759** to Committee on State Affairs.
- HB 2801** to Committee on Education.
- HB 2807** to Committee on Natural Resources, Subcommittee on Agriculture.

HB 2816 to Committee on State Affairs.
HB 2829 to Committee on Criminal Justice.
HB 2830 to Committee on Criminal Justice.
HB 2847 to Committee on Natural Resources.
HB 2848 to Committee on Natural Resources.
HB 2858 to Committee on State Affairs.
HB 2863 to Committee on State Affairs.
HB 2866 to Committee on Health and Human Services.
HB 2871 to Committee on Intergovernmental Relations.
HB 2923 to Committee on Finance.
HB 2933 to Committee on Finance.
HB 2951 to Committee on Jurisprudence.
HB 3076 to Committee on Economic Development.
HB 3077 to Committee on Economic Development.
HB 3088 to Committee on Jurisprudence.
HB 3104 to Committee on Jurisprudence.
HB 3105 to Committee on Jurisprudence.
HB 3106 to Committee on Health and Human Services.
HB 3112 to Committee on Education.
HB 3176 to Committee on State Affairs.
HB 3212 to Committee on Criminal Justice.
HB 3231 to Committee on Finance.
HB 3278 to Committee on Criminal Justice.
HB 3334 to Committee on Finance.
HB 3356 to Committee on Education.
HB 3436 to Committee on State Affairs.
HB 3443 to Committee on State Affairs.
HB 3538 to Committee on Jurisprudence.
HB 3548 to Committee on Natural Resources.
HB 3550 to Committee on Intergovernmental Relations.
HB 3557 to Committee on Jurisprudence.
HB 3558 to Committee on Criminal Justice.
HB 3559 to Committee on Jurisprudence.
HCR 55 to Committee on Administration.
HCR 80 to Committee on Administration.
HCR 143 to Committee on Administration.
HCR 145 to Committee on Health and Human Services.

LEGISLATIVE POLICY RESOLUTION

SR 602 - by Nelson: Encouraging the Federal Communications Commission to implement recommendations from the Public Safety Wireless Advisory Commission.

MEMORIAL RESOLUTIONS

SR 597 - by Ellis: In memory of Richard J. Trabulsi, Sr., of Houston.

HCR 93 - (Whitmire): In memory of the Honorable Erwin Barton of Pasadena.

CONGRATULATORY RESOLUTIONS

SR 598 - by Ellis: Congratulating Thelma Graves and commending the Robert Browning Elementary School of Houston.

SR 599 - by Madla, Luna, Wentworth: Congratulating Vinny Del Negro of the San Antonio Spurs basketball team.

SR 600 - by Madla, Luna, Wentworth: Congratulating Avery Johnson of the San Antonio Spurs basketball team.

SR 603 - by Nelson: Commending the City of Southlake.

SR 604 - by Nelson: Congratulating Dr. Terry D. Watson of Dallas.

ADJOURNMENT

Pursuant to a previously adopted motion, the Senate at 11:52 a.m. adjourned, in memory of Kenneth Lee Sawin of Lockhart, until 10:00 a.m. tomorrow.

APPENDIX

COMMITTEE REPORTS

The following committee reports were received by the Senate:

April 29, 1997

INTERGOVERNMENTAL RELATIONS — HB 2692, HB 1567, HB 463, HCR 29

NATURAL RESOURCES — CSSB 866, CSSB 1909

ECONOMIC DEVELOPMENT — CSSB 1155, CSHB 3, CSHB 1975, HB 565, HB 567, HB 922

JURISPRUDENCE — SB 11, HB 384, HB 614, HB 646, HB 736, HB 880, HB 1504, HB 1710, HB 1860, HB 2274, HB 3504

INTERGOVERNMENTAL RELATIONS — CSHB 2185, HB 708 (Amended)

STATE AFFAIRS — HB 101, HB 641, HB 799, HB 833, HB 1025, SB 1343